

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

MOTION OF THE UNITED STATES TO  
PARTIALLY VACATE PRELIMINARY ORDER OF FORFEITURE

The United States of America, by its attorney, Michael J. Sullivan, United States Attorney for the District of Massachusetts, hereby moves that this Court vacate the Preliminary Order of Forfeiture issued on June 7, 2005, only with respect to the real property located at 940 Nantasket Avenue, Hull, Massachusetts, having a deed recorded at the Plymouth County Registry of Deeds, Book 19257, Page 118 (the "Nantasket Avenue Property"). A proposed Order Partially Vacating Preliminary Order of Forfeiture is submitted herewith. As grounds therefore, the United States submits:

1. On or about March 8, 2005, the defendant Jamie Edelkind (the "Defendant") was convicted by a jury of four counts of bank fraud, in violation of Title 18, United States Code, Section 1344).

2. Based on Edelkind's conviction, on June 7, 2005, the District Court issued a Preliminary Order of Forfeiture against the Defendant's interests in the Nantasket Avenue Property, along with the Defendant's interests in Sovereign Bank Official Check

number 4294126, in the amount of \$569,878.93, and all proceeds traceable thereto, and Check number 22768, in the amount of \$9,926.80, drawn on a JP Morgan Chase Bank account held in the name of Fairmont Funding LTD, made payable to Linda Edelkind and dated September 27, 2004, and all proceeds traceable thereto.

4. On September 28, 2005, Lehman Brothers Bank, FSB ("Lehman Brothers Bank"), filed an expedited motion to modify order of forfeiture and allow Lehman Brothers Bank to foreclose on the Nantasket Avenue Property (the "Motion to Foreclose"). Through the Motion to Foreclose, Lehman Brothers Bank sought permission to foreclose upon its mortgage interest, pay its loan, and deposit any remaining surplus with the District Court for distribution at a later date, as determined by the Court. The United States did not oppose the Motion to Foreclose, and this Court granted the motion on October 14, 2005.

5. Because the Motion to Foreclose is inconsistent with the Preliminary Order of Forfeiture endorsed on June 7, 2005, the United States hereby moves to vacate only those portions of the Preliminary Order of Forfeiture pertaining to the Nantasket Avenue Property.

WHEREFORE, the United States respectfully moves that this Court enter an Order Partially Vacating the Preliminary Order of Forfeiture, only with respect to the Nantasket Avenue Property, in the form submitted.

Respectfully submitted,

MICHAEL J. SULLIVAN  
United States Attorney,

BY: /s/ Kristina E. Barclay  
KRISTINA E. BARCLAY  
Assistant U.S. Attorney  
United States Courthouse  
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1 Courthouse Way  
Boston, MA 02210  
(617) 748-3100

Date: December 13, 2005

CERTIFICATE OF SERVICE

I certify that I have served a true copy of the foregoing Motion of the United States to Vacate Preliminary Order of Forfeiture, as well as a Proposed Order to Vacate Preliminary Order of Forfeiture, upon Michael J. Liston, Esquire, 2 Park Plaza, Suite 610, Boston, Massachusetts 02116, as counsel for Defendant Jamie Edelkind, and Veronica C. Viveiros, Esquire, Harmon Law Offices, P.C., 150 California Street, Newton, Massachusetts 02458, as counsel for Lehman Brothers Bank, FSB, by first class mail, postage prepaid.

/s/ Kristina E. Barclay  
Kristina E. Barclay  
Assistant U.S. Attorney

Date: December 13, 2005